

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION X

IN THE MATTER OF:

Terminal 117,

Seattle, Washington,

Port of Seattle,

Respondent.

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMOVAL ACTION

U.S. EPA Region X
CERCLA Docket No. 10-2006-0324
Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive
Environmental Response, Compensation,
and Liability Act, as amended, 42 U.S.C.
§§ 9604, 9606(a), 9607 and 9622.

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (Settlement Agreement) is entered into voluntarily by the United States Environmental Protection Agency, Region X (EPA), and the Port of Seattle (Port) as Respondent. This Settlement Agreement provides for the performance of a time-critical removal action (TCRA) by Respondent and the reimbursement of certain response costs incurred by the United States at or in connection with such action for certain upland portions of the Port of Seattle's Terminal 117 (T-117), which is located at approximately River Mile 3.5 to 3.7 along the west shore of the Duwamish Waterway, and within the Lower Duwamish Waterway Superfund Site (Site or LDW Site) in Seattle, Washington.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended (CERCLA).

3. EPA has notified the State of Washington Department of Ecology (State or Ecology) of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Ecology is co-managing and overseeing cleanup of the Site jointly with EPA.

4. EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement do not constitute admissions of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and

1 further agrees that it will not contest the basis or validity of this Settlement Agreement or its
2 terms. Respondent agrees to undertake all actions required by this Settlement Agreement,
3 including any modifications thereto, and consents to and will not contest EPA's authority to
4 issue or to enforce this Settlement Agreement. Except as expressly provided in this Settlement
5 Agreement, each party reserves all rights and defenses it may have.

6 **II. PARTIES BOUND**

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8 5. This Settlement Agreement applies to and is binding upon EPA and upon
9 Respondent and its successors and assigns. Any change in governmental status of Respondent
10 including, but not limited to, any transfer of assets or real or personal property shall not alter
11 Respondent's responsibilities under this Settlement Agreement.

12 6. Respondent shall ensure that its contractors, subcontractors, and representatives
13 receive a copy of this Settlement Agreement within 14 days from the Effective Date or within 14
14 days of their contract to work on the project, and that they comply with this Settlement
15 Agreement. Respondent shall be responsible for any noncompliance with this Settlement
16 Agreement.

17 **III. DEFINITIONS**

18
19 7. Unless otherwise expressly provided herein, terms used in this Settlement
20 Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall
21 have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed
22 below are used in this Settlement Agreement or in the appendices attached hereto and
23 incorporated hereunder, the following definitions shall apply:

24 a. "CERCLA" shall mean the Comprehensive Environmental Response,
25 Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*
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1 b. "Day" shall mean a calendar day. In computing any period of time under this
2 Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday,
3 the period shall run until the close of business of the next working day.

4 c. "Effective Date" shall be the effective date of this Settlement Agreement as
5 provided in Section XXX.

6 d. "Engineering Evaluation/Cost Analysis" (EE/CA) shall have the definition
7 and attributes described in the NCP, as may be modified by this Settlement Agreement.

8 e. "EPA" shall mean the United States Environmental Protection Agency and
9 any successor departments or agencies of the United States.

10 f. "Ecology" or "State" shall mean the State of Washington Department of
11 Ecology and any successor departments or agencies thereof.

12 g. "Future Response Costs" shall mean all costs, including, but not limited to,
13 direct and indirect costs, that the United States has incurred in planning, developing and
14 negotiating this Settlement Agreement, in reviewing or developing plans, reports and other items
15 pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing,
16 overseeing, or enforcing this Settlement Agreement, including, but not limited to, payroll costs,
17 contractor costs, travel costs, laboratory costs, costs incurred by EPA associated with EPA's
18 preparation of any EPA decision documents (including any Action Memoranda), the costs
19 incurred pursuant to Paragraph 23 (costs and attorneys fees and any monies paid to secure
20 access, including the amount of just compensation), Paragraph 33 (emergency response), and
21 Paragraph 59 (work takeover), as well as any other activities related to the T-117 Early Action
22 Area undertaken by EPA and/or Ecology at Respondent's request.

23 h. "Interest" shall mean interest at the rate specified for interest on investments
24 of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded
25 annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate
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1 of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject
2 to change on October 1 of each year.

3 i. "National Contingency Plan" or "NCP" shall mean the National Oil and
4 Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of
5 CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

6 j. "Paragraph" shall mean a portion of this Settlement Agreement identified by
7 an Arabic numeral.

8 k. "Parties" shall mean EPA and Respondent.

9 l. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§
10 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

11 m. "Section" shall mean a portion of this Settlement Agreement identified by a
12 Roman numeral.

13 n. "Settlement Agreement" shall mean this Administrative Settlement
14 Agreement and Order on Consent and all appendices attached hereto (listed in Section XXIX).
15 In the event of conflict between this Settlement Agreement and any appendix, this Settlement
16 Agreement shall control.

17 o. "Statement of Work" or "SOW" shall mean the statement of work for
18 implementation of the removal action, as set forth in Appendix A to this Settlement Agreement,
19 and any modifications made thereto in accordance with this Settlement Agreement.

20 p. "Waste Material" shall mean 1) any "hazardous substance" under Section
21 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section
22 101(33) of CERCLA, 42 U.S.C. § 9601(33); 3) any "solid waste" under Section 1004(27) of
23 RCRA, 42 U.S.C. § 6903(27); and 4) any "dangerous waste" under RCW 70.95E.010(1).

24 q. "Work" shall mean all activities Respondent is required to perform under this
25 Settlement Agreement.
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IV. FINDINGS OF FACT

8. EPA finds the following facts which Respondent neither admits nor denies:

a. The Lower Duwamish Waterway Superfund Site (Site) consists of the areal extent of contamination in the Lower Duwamish Waterway. The Waterway has served as Seattle's major industrial corridor since it was first created by a widening and straightening of the Lower Duwamish River (and formation of Harbor Island) by the United States Army Corps of Engineers, completed in 1917. Industrial uses of and along the Waterway have been extensive since its construction. The Waterway is also habitat to numerous fish and other aquatic species, and is a migratory corridor for threatened, and other anadromous fish species. Sources of releases to the Waterway include but are not limited to, industrial releases, combined sewer overflows and urban run-off.

b. On September 13, 2001, the Site was listed on the National Priorities List pursuant to Section 105 of CERCLA, 42 U.S.C. 9605, at 66 Fed. Reg. 47583.

c. The Lower Duwamish Waterway, including the sediments in the vicinity of T-117, has been the subject of numerous studies by various governmental and private entities which Respondent (with three other parties) has assembled, integrated and evaluated during Phase I of the RI process required by the Lower Duwamish Waterway CERCLA remedial action/feasibility study (RI/FS) Administrative Order on Consent (AOC) issued in December 2000 to Respondent and three other parties. In 2003, pursuant to the LDW RI/FS AOC, the sediments and bank in the general vicinity of T-117 were identified as a candidate "Early Action Area" (the T-117 EAA). Contaminants found at T-117 and in adjacent sediments to date include, but are not limited to, polychlorinated biphenyls (PCBs), total petroleum hydrocarbons (TPHs), poly-aromatic hydrocarbons (PAHs), arsenic, mercury, other metals and organics. EPA decided to move forward with early action clean up at T-117 due primarily to high levels of PCBs located in the vicinity of T-117 along the western side of the LDW. EPA has entered into

1 a Settlement Agreement with Respondent and the City of Seattle (City) for the performance of a
2 non-time-critical removal action (NTCRA) for the T-117 EAA (sediment and bank). EPA and
3 Respondent anticipate amending this NTCRA Settlement Agreement to include substantial
4 portions of the T-117 upland that are not addressed by this TCRA Settlement Agreement.

5 d. T-117 was formerly the location of an asphalt roofing materials manufacturing
6 facility owned and operated from approximately 1937 to 1993 by persons other than Respondent,
7 including the Malarkey Asphalt Company and the Duwamish Manufacturing Company, located
8 at 8700 Dallas Avenue South, Seattle, Washington. Based on circumstantial evidence, historical
9 sources of PCB contamination were primarily from PCB-contaminated oil from Seattle City
10 Light used as fuel oil by the Duwamish Manufacturing Company in the 1970's. Based on
11 circumstantial evidence, operational practices over subsequent decades at the facility spread the
12 contamination. There may also have been other sources of PCBs that contaminated T-117 soils
13 and sediments.

14 e. In 1996, pursuant to an AOC issued to the Malarkey Asphalt Company
15 pursuant to Section 106 of CERCLA, an assessment of soil contamination was performed with
16 EPA oversight. Thereafter, claiming it could not afford to remove PCB-contaminated soils, the
17 Malarkey Asphalt Company transferred ownership of the facility to the Port in exchange for
18 performance by the Port of a PCB removal required by EPA. In 2000, pursuant to an AOC
19 issued to the Port pursuant to Section 106 of CERCLA, a time critical removal action removed
20 upland soils in areas of the facility known to exceed 25 ppm. Most of the removed contaminated
21 soil was on a strip of land composed mainly of fill material of unknown origin and composition
22 adjacent to the LDW.

23 f. Pursuant to the RI/FS AOC for the LDW Site, a Work Plan for Investigation
24 Tasks for the T-117 EAA (Work Plan) dated May 29, 2003, was submitted by Respondent and
25 approved by EPA. Pursuant to that Work Plan, EPA approved the following documents for the
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1 T-117 EAA: 1) Summary of Existing Information and Identification of Data Gaps, dated
2 September 26, 2003; 2) Quality Assurance Project Plan (QAPP), dated December 3, 2003; and
3 3) T-117 EE/CA, dated July 13, 2005. EPA issued a non-time critical removal (NTCR) Action
4 Memorandum on July 22, 2005 for the T-117 EAA (sediments and bank). After submission of a
5 Draft Sediments Cruise and Data Report by Respondent, higher than expected PCB
6 concentrations in the bank and sediments at the northern part of the T-117 EAA led EPA to
7 require further sampling of this area along with upland areas of T-117. This sampling revealed
8 elevated PCB concentrations in upland soils as high as 9,200 ppm. The maximum TPH
9 concentration was 55,100 ppm. A time-critical removal Action Memorandum to address risks
10 posed by this upland soil contamination was issued by EPA on June 15, 2006. Subsequently,
11 EPA concluded with Respondent that the scope of the TCRA would be limited to areas of T-117
12 with the highest documented levels of PCBs in soils, and a limited area near the bank with
13 exposed unpaved contaminated soils, and that the rest of the upland contamination would be
14 more efficiently addressed in the revised NTCRA referenced in subparagraph c. above.

15 g. The Port of Seattle is a Washington Port District, duly created under RCW
16 Chap. 53. The Port is the successor to Commercial Waterway District #1, which acquired the
17 Waterway properties and created the Waterway in 1912 - 1917.

18 h. EPA has not completed a Potentially Responsible Party search for the Site or
19 for the upland area in the vicinity of T-117. Additional parties may be responsible for releases
20 and contamination at the Site and at T-117.

21 i. Respondent has been cooperating in the performance of the necessary
22 response actions to date with respect to T-117 and the T-117 EAA.

23 **V. CONCLUSIONS OF LAW AND DETERMINATIONS**

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25 9. Based on the Findings of Fact set forth above, EPA has determined that:
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1 a. T-117 is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. §
2 9601(9).

3 b. The contamination found at T-117, as identified in the Findings of Fact above,
4 is commingled and includes "hazardous substances" as defined by Section 101(14) of CERCLA,
5 42 U.S.C. § 9601(14), which may present an imminent and substantial danger to the public
6 health or welfare.

7 c. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42
8 U.S.C. § 9601(21).

9 d. Respondent is a responsible party under Section 107(a) of CERCLA, 42
10 U.S.C. § 9607(a), and is jointly and severally liable for performance of response action and for
11 response costs incurred and to be incurred at T-117. Respondent is an "owner" and/or "operator"
12 ~~of a portion~~ of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20),
13 and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

14 e. The conditions described in the Findings of Fact above constitute an actual or
15 threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of
16 CERCLA, 42 U.S.C. § 9601(22).

17 f. The removal action required by this Settlement Agreement is necessary to
18 protect the public health, welfare, or the environment and, if carried out in compliance with the
19 terms of this Settlement Agreement, will be considered consistent with the NCP, as provided in
20 Section 300.700(c)(3)(ii) of the NCP.

21 **VI. SETTLEMENT AGREEMENT AND ORDER**

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23 Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the
24 Administrative Record for the Site, it is hereby Ordered and Agreed that Respondent shall
25 comply with all provisions of this Settlement Agreement, including, but not limited to, all
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1 attachments to this Settlement Agreement and all documents incorporated by reference into this
2 Settlement Agreement.

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4 **VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR**

5 10. Respondent shall retain one or more contractors to perform the Work and shall
6 notify EPA of the name(s) and qualifications of such contractor(s) within 10 days of the
7 Effective Date. Respondent shall also notify EPA in writing of the name(s) and qualification(s)
8 of any other contractor(s) or subcontractor(s) retained to perform the Work at least 7 days prior
9 to commencement of such Work. EPA retains the right to disapprove of any or all of the
10 contractors and/or subcontractors retained by Respondent. If EPA disapproves of a selected
11 contractor in writing, Respondent shall retain a different contractor and shall notify EPA of that
12 contractor's name and qualifications within 30 days of EPA's disapproval.

13 11. Within 7 days after the Effective Date, Respondent shall designate a Project
14 Coordinator who shall be responsible for administration of all actions by Respondent required by
15 this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name,
16 address, telephone number, and qualifications. To the greatest extent possible, the Project
17 Coordinator shall be present or readily available during field Work. EPA retains the right to
18 disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project
19 Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that
20 person's name, address, telephone number, and qualifications within 7 days following EPA's
21 disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from
22 EPA relating to this Settlement Agreement shall constitute receipt by Respondent.

23 12. EPA has designated Michael J. Szerlog of the Office of Environmental Cleanup
24 (ECL), Region X, as its Project Coordinator. Except as otherwise provided in this Settlement
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1 Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the
2 EPA Project Coordinator at 1200 Sixth Avenue, M/S ECL-111, Seattle, WA 98101.

3 13. EPA and Respondent shall have the right, subject to Paragraph 11, to change their
4 respective designated Project Coordinator. Respondent shall notify EPA 7 days before such a
5 change is made. The initial notification may be made orally, but shall be promptly followed by a
6 written notice.

7 **VIII. WORK TO BE PERFORMED**

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9 14. Respondent shall perform, at a minimum, all actions necessary to implement the
10 Statement of Work (SOW), which is attached as Appendix A.

11 15. The actions to be implemented generally include, but are not limited to, soil
12 removal at T-117, as set forth in the SOW, and the TCR Action Memorandum of June 15, 2006,
13 subject however to the revised division of upland removal action as described in subparagraphs
14 8c, and more particularly 8f, above.

15 16. EPA removal actions guidance, and any additional relevant guidance shall be
16 followed in implementing the SOW.

17 17. The primary objective of this removal action is the removal of most contaminated
18 and most exposed contaminated soils to mitigate or prevent potential exposure to contaminants
19 present at T-117.

20 18. For all Work, EPA may approve, disapprove, require revisions to, or modify a
21 deliverable in whole or in part. If EPA requires revisions, Respondent shall submit a revised
22 deliverable within 10 days of receipt of EPA's notification of the required revisions, unless
23 otherwise noted in the SOW. Respondent shall implement the Work as approved in writing by
24 EPA in accordance with the schedule approved by EPA. Once approved, or approved with
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1 modifications, the Work and the schedule, and any subsequent modifications, shall be
2 incorporated into and become fully enforceable under this Settlement Agreement.

3 19. Respondent shall not commence any Work except in conformance with the terms
4 of this Settlement Agreement. Respondent shall not commence implementation of the Work
5 developed hereunder until after receiving written EPA approval pursuant to this Section.

6 20. Reporting.

7 a. Respondent shall submit a written progress report to EPA concerning actions
8 undertaken pursuant to this Settlement Agreement every 30th day after the Effective Date until
9 termination of this Settlement Agreement, unless otherwise directed in writing by the EPA
10 Project Coordinator. These reports shall describe all significant developments during the
11 preceding period, including the actions performed and any problems encountered, analytical data
12 received during the reporting period, and the developments anticipated during the next reporting
13 period, including a schedule of actions to be performed, anticipated problems, and planned
14 resolutions of past or anticipated problems.

15 b. At least 30 days prior to the conveyance of any interest in real property at T-
16 117 owned or controlled by Respondent, Respondent shall give written notice to the transferee
17 that the property is subject to this Settlement Agreement and written notice to EPA and Ecology
18 of the proposed conveyance, including the name and address of the transferee. Respondent also
19 agrees to require that its successor(s), if any, comply with the immediately preceding sentence
20 and Sections IX (Site Access) and X (Access to Information).

21 21. Off-Site Shipments.

22 a. Respondent shall, prior to any off-site shipment of Waste Material derived
23 from the implementation of this Settlement Agreement from T-117 to an out-of-state waste
24 management facility, provide written notification of such shipment of Waste Material to the
25 appropriate state environmental official in the receiving facility's state and to the EPA Project
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Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

i. Respondent shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

ii. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the removal action. Respondent shall provide the information required by Paragraph 21(a) and 21(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances, pollutants, or contaminants from T-117 to an off-site location, Respondent shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances, pollutants, or contaminants from T-117 to an off-site facility that EPA has certified as in compliance with the requirements of the statutory provision and regulation cited in the preceding sentence.

IX. ACCESS

22. Respondent shall, commencing on the Effective Date, provide EPA and its representatives, including contractors, with access at all reasonable times to T-117 for the purpose of conducting any activity related to this Settlement Agreement. EPA shall provide

1 reasonable notice to Respondent under the circumstances concerning any EPA activities under
2 this Settlement Agreement for which access to T-117 will be necessary, and absent emergency
3 circumstances, shall attempt to coordinate with Respondent to minimize disruption to
4 Respondent's tenants and other parties authorized to use Respondent's property.

5 23. Where any action under this Settlement Agreement is to be performed in areas
6 owned by or in possession of someone other than Respondent, Respondent shall use its best
7 efforts to obtain all necessary access agreements within 30 days after the Effective Date, or as
8 otherwise specified in writing by the EPA Project Coordinator. Respondent shall immediately
9 notify EPA if after using their best efforts it is unable to obtain such agreements. For purposes
10 of this Paragraph, "best efforts" includes the payment of reasonable sums of money in
11 consideration of access. Respondent shall describe in writing their efforts to obtain access. EPA
12 may then assist Respondent in gaining access, to the extent necessary to effectuate the response
13 actions described herein, using such means as EPA deems appropriate. Respondent shall
14 reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such
15 access, in accordance with the procedures in Section XV (Payment of Response Costs).

16 24. Notwithstanding any provision of this Settlement Agreement, EPA retains all of
17 its access authorities and rights, as well as all of its rights to require land/water use restrictions,
18 including enforcement authorities related thereto, under CERCLA, RCRA, and any other
19 applicable statutes or regulations.

20 **X. ACCESS TO INFORMATION**

21
22 25. Respondent shall provide copies to EPA, upon request, of all documents and
23 information within its possession or control or that of its contractors or agents relating to
24 activities at T-117 or to the implementation of this Settlement Agreement, including, but not
25 limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts,
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1 reports, sample traffic routing, correspondence, or other documents or information related to the
2 Work. Respondent shall also make available to EPA, for purposes of investigation, information
3 gathering, or testimony, its employees, agents, or representatives with knowledge of relevant
4 facts concerning the performance of the Work.

5 26. Respondent may assert business confidentiality claims covering part or all of the
6 documents or information submitted to EPA under this Settlement Agreement, specifically
7 including contractor costs and documentation thereof, but specifically excluding deliverables
8 required by the attached SOW on which EPA may rely in remedy selection either for T-117 or
9 for the Site, to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA,
10 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be
11 confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If
12 no claim of confidentiality accompanies documents or information when they are submitted to
13 EPA, or if EPA has notified Respondent that the documents or information are not confidential
14 under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public
15 may be given access to such documents or information without further notice to Respondent.

16 27. Respondent may assert that certain documents, records and other information are
17 privileged under the attorney-client privilege or any other privilege recognized by federal law. If
18 Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA with the
19 following: 1) the title of the document, record, or information; 2) the date of the document,
20 record, or information; 3) the name and title of the author of the document, record, or
21 information; 4) the name and title of each addressee and recipient; 5) a description of the
22 contents of the document, record, or information; and 6) the privilege asserted by Respondent.
23 However, no documents, reports or other information created or generated pursuant to the
24 requirements of this Settlement Agreement shall be withheld on the grounds that they are
25 privileged.

1 28. No claim of confidentiality shall be made with respect to any data submitted or to
2 be considered by EPA with respect to T-117 or the Site, including, but not limited to, all
3 sampling, analytical, monitoring, hydro-geologic, scientific, chemical, or engineering data, or
4 any other documents or information evidencing conditions at or around T-117.

5
6 **XI. RECORD RETENTION**

7 29. Until 10 years after Respondent's receipt of EPA's notification pursuant to
8 Section XXVIII (Notice of Completion of Work), Respondent shall preserve and retain all non-
9 identical copies of records and documents (including records or documents in electronic form)
10 now in its possession or control or which come into its possession or control that relate in any
11 manner to the performance of the Work or the liability of any person under CERCLA with
12 respect to T-117, regardless of any corporate retention policy to the contrary. Until 10 years
13 after Respondent's receipt of EPA's notification pursuant to Section XXVIII (Notice of
14 Completion of Work), Respondent shall also instruct their contractors and agents to preserve all
15 documents, records, and information of whatever kind, nature or description relating to
16 performance of the Work.

17 30. At the conclusion of this document retention period, Respondent shall notify EPA
18 and Ecology at least 90 days prior to the destruction of any such records or documents, and, upon
19 request by EPA or Ecology, Respondent shall deliver any such records or documents to EPA or
20 Ecology. Respondent may assert that certain documents, records and other information are
21 privileged under the attorney-client privilege or any other privilege recognized by federal law. If
22 Respondent asserts such a privilege, it shall provide EPA or Ecology with the following: 1) the
23 title of the document, record, or information; 2) the date of the document, record, or information;
24 3) the name and title of the author of the document, record, or information; 4) the name and title
25 of each addressee and recipient; 5) a description of the subject of the document, record, or
26

1 information; and 6) the privilege asserted by Respondent. However, no documents, reports or
2 other information created or generated pursuant to the requirements of this Settlement
3 Agreement shall be withheld on the grounds that they are privileged.

4 31. Respondent hereby certifies that to the best of its knowledge and belief, after
5 thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any
6 records, documents or other information (other than identical copies) relating to its potential
7 liability regarding T-117 since notification of potential liability by EPA or Ecology or the filing
8 of suit against it regarding T-117 and that it has fully complied with any and all EPA requests for
9 information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and
10 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

11 **XII. COMPLIANCE WITH OTHER LAWS**

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13 32. Respondent shall perform all actions required pursuant to this Settlement
14 Agreement in accordance with all applicable local, state, and federal laws and regulations except
15 as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e)
16 and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all actions required pursuant to this
17 Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the
18 exigencies of the situation, attain applicable or relevant and appropriate requirements under
19 federal environmental, tribal environmental, or state environmental or facility siting laws.

20 **XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES**

21
22 33. In the event of any action or occurrence during performance of the Work which
23 causes or threatens to cause a release of Waste Material from T-117 that constitutes an
24 emergency situation or may present an immediate threat to public health or welfare or the
25 environment, Respondent shall immediately take all appropriate action. Respondent shall take
26

1 these actions in accordance with all applicable provisions of this Settlement Agreement, in order
2 to prevent, abate or minimize such release or endangerment caused or threatened by the release.
3 Respondent shall also immediately notify the EPA Project Coordinator or, in the event of his/her
4 unavailability, the Regional Duty Officer, Environmental Cleanup Office, Emergency Response
5 Unit, EPA Region X, 206-553-1263, of the incident or conditions. In the event that Respondent
6 fails to take appropriate response action as required by this Paragraph, and EPA takes such action
7 instead, Respondent shall reimburse EPA all costs of the response action not inconsistent with
8 the NCP pursuant to Section XV (Payment of Response Costs).

9 34. In addition, in the event of any release of a hazardous substance from T-117,
10 Respondent shall immediately notify the EPA Project Coordinator and the National Response
11 Center at (800) 424-8802. Respondent shall submit a written report to EPA within 7 days after
12 each release, setting forth the events that occurred and the measures taken or to be taken to
13 mitigate any release or endangerment caused or threatened by the release and to prevent the
14 reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of,
15 reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the
16 Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11001, *et seq.*

17 **XIV. AUTHORITY OF EPA PROJECT COORDINATOR**

18
19 35. The EPA Project Coordinator shall be responsible for overseeing Respondent's
20 implementation of this Settlement Agreement. The Project Coordinator shall have the authority
21 vested in an On-Scene Coordinator (OSC) by the NCP, including the authority to halt, conduct,
22 or direct any Work required by this Settlement Agreement, or to direct any other removal action
23 undertaken at T-117, as well as the authority of a Remedial Project Manager (RPM) as set forth
24 in the NCP. Absence of the EPA Project Coordinator from T-117 shall not be cause for stoppage
25 of work unless specifically directed by the EPA Project Coordinator.
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a. Respondent shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondent a bill requiring payment that includes a SCORPIOS or other regionally prepared cost summary, which includes direct and indirect costs incurred by EPA and its contractors. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 39 of this Settlement Agreement.

Mellon Bank
EPA-Region 10 Superfund
P.O. Box 371099M
Pittsburgh, PA 15251

37. The total amount to be paid by Respondent pursuant to this Section shall be deposited in the Lower Duwamish Waterway Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

38. If payments for Future Response Costs are not made within 30 days of Respondent's receipt of a bill, Respondent shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue on the date of Respondent's receipt of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section, including, but not limited to, payment of stipulated penalties pursuant to Section XVIII.

39. Respondent may dispute all or part of a bill for Future Response Costs submitted under this Settlement Agreement, if Respondent alleges that EPA has made an accounting error, or if Respondent alleges that a cost item is inconsistent with the NCP. If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondent shall pay the full amount of the uncontested costs to EPA as specified in this Section on or before the due date. Within the same time period, Respondent shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondent shall simultaneously transmit a copy of both checks to the persons listed in this Section above, together with a copy of the correspondence that established and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Respondent shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within 10 days after the dispute is resolved.

XVI. DISPUTE RESOLUTION

40. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes

1 arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements
2 concerning this Settlement Agreement expeditiously and informally.

3 41. If Respondent objects to any EPA action taken pursuant to this Settlement
4 Agreement, including billings for Future Response Costs, it shall notify EPA in writing of its
5 objection(s) within 14 days of such action, unless the objection(s) has/have been resolved
6 informally. EPA and Respondent shall have 14 days from EPA's receipt of Respondent's
7 written objection(s) to resolve the dispute through formal negotiations (the Negotiation Period).
8 The Negotiation Period may be extended at the sole discretion of EPA.

9 42. Any agreement reached by the parties pursuant to this Section shall be in writing
10 and shall, upon signature by both parties, be incorporated into and become an enforceable part of
11 this Settlement Agreement. If the Parties are unable to reach an agreement within the
12 Negotiation Period, the Director of the EPA Region X Environmental Cleanup Office or his/her
13 Associate Director (ECL Director) will issue a written decision on the dispute to Respondent.
14 EPA's decision shall be incorporated into and become an enforceable part of this Settlement
15 Agreement. Respondent's obligations under this Settlement Agreement shall not be tolled by
16 submission of any objection for dispute resolution under this Section. Following resolution of
17 the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the
18 subject of the dispute in accordance with the agreement reached or with EPA's decision,
19 whichever occurs. Any written statement of objections submitted by Respondent and any
20 accompanying documentation shall be retained by EPA in an Administrative Record at the
21 written request of Respondent or at EPA's discretion if there is no written retention request by
22 Respondent.

XVII. FORCE MAJEURE

43. Respondent agrees to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including, but not limited to, their contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work, increased cost of performance, or a failure to attain performance standards/action levels selected by EPA.

44. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within 24 hours of when Respondent first knew that the event might cause a delay. Within 10 days thereafter, Respondent shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim, including supporting documentation for such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

45. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are

1 affected by the *force majeure* event will be extended by EPA for such time as is necessary to
2 complete those obligations. An extension of the time for performance of the obligations affected
3 by the *force majeure* event shall not, of itself, extend the time for performance of any other
4 obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused
5 by a *force majeure* event, EPA will notify Respondent in writing of its decision. If EPA agrees
6 that the delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of
7 the length of the extension for performance of the obligations affected by the *force majeure*
8 event.

9 **XVIII. STIPULATED PENALTIES**

10
11 46. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth
12 in this Section for failure to comply with the requirements of this Settlement Agreement
13 specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by
14 Respondent shall include completion of the activities under this Settlement Agreement or any
15 work plan or other plan approved under this Settlement Agreement identified below in
16 accordance with all applicable requirements of law, this Settlement Agreement, all Appendices,
17 and any plans or other documents approved by EPA pursuant to this Settlement Agreement and
18 within the specified time schedules established by and approved under this Settlement
19 Agreement.

20 47. Stipulated Penalty Amounts - Work.

21 a. The following stipulated penalties shall accrue per violation per day for any
22 noncompliance identified in Paragraph 47(b):

| <u>Penalty Per Violation Per Day</u> | <u>Period of Noncompliance</u> |
|--------------------------------------|--------------------------------|
| \$ 1,000 | 1st through 7th day |
| \$ 2,000 | 8th through 14th day |
| \$ 3,500 | 15th through 30th day |
| \$ 7,500 | 31st day through 90th day |

b. The final and all submitted drafts of the following Compliance Milestones:

1. Removal Action Work Plan;
2. Quality Assurance Project Plan (QAPP);
3. Operation and Maintenance Plan/Post-Removal Site Control Plan;
4. Air Quality Monitoring Plan;
5. Final Removal Action Report.

48. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate final and all submitted draft reports or other written documents pursuant to this Settlement Agreement that are not listed in Paragraph 47(b):

| <u>Penalty Per Violation Per Day</u> | <u>Period of Noncompliance</u> |
|--------------------------------------|--------------------------------|
| \$ 500 | 1st through 7th day |
| \$ 1,000 | 8th day through 14th day |
| \$ 2,500 | 15th through 30th day |
| \$ 5,000 | 31st day through 90th day |

49. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section VIII (Work to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondent of any deficiency; and 2) with respect to a decision by the ECL Director under Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the ECL Director issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

50. Following EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA may give Respondent written notification of the failure and describe the noncompliance. EPA may send Respondents a written demand for

1 payment of the penalties. However, penalties shall accrue as provided in the preceding
2 Paragraph regardless of whether EPA has notified Respondents of a violation.

3 51. All penalties accruing under this Section shall be due and payable to EPA within
4 30 days of Respondent's receipt from EPA of a demand for payment of the penalties, unless
5 Respondent invokes the dispute resolution procedures under Section XVI (Dispute Resolution).
6 All payments to EPA under this Section shall be paid by certified or cashier's check(s) made
7 payable to "EPA Hazardous Substances Superfund," shall be mailed to the Lockbox number and
8 address set forth in Paragraph 36b, above, shall indicate that the payment is for stipulated
9 penalties, and shall reference the EPA Region and Site/Spill ID Number 10AK, the EPA Docket
10 Number of this Settlement Agreement, and the name and address of the parties making payment.
11 Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s),
12 shall be sent to EPA as provided in Paragraph 12, and to other receiving officials at EPA
13 identified in Paragraph 36c, above.

14 52. The payment of penalties shall not alter in any way Respondent's obligation to
15 complete performance of the Work required under this Settlement Agreement.

16 53. Penalties shall continue to accrue during any dispute resolution period, but need
17 not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's
18 decision.

19 54. If Respondent fails to pay stipulated penalties when due, EPA may institute
20 proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the
21 unpaid balance, which shall begin to accrue on the date of demand made pursuant to
22 Paragraph 50.

23 55. Nothing in this Settlement Agreement shall be construed as prohibiting, altering,
24 or in any way limiting the ability of EPA to seek any other remedies or sanctions available by
25 virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations
26

1 upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and
2 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section
3 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil
4 penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to
5 Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided
6 herein, except in the case of a willful violation of this Settlement Agreement or in the event that
7 EPA assumes performance of a portion or all of the Work pursuant to Section XX, Paragraph 59.
8 Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion,
9 waive any portion of stipulated penalties that have accrued pursuant to this Settlement
10 Agreement.

11 **XIX. COVENANT NOT TO SUE BY EPA**

12
13 56. In consideration of the actions that will be performed and the payments that will
14 be made by Respondent under the terms of this Settlement Agreement, and except as otherwise
15 specifically provided in this Settlement Agreement, EPA covenants not to sue or to take
16 administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42
17 U.S.C. §§ 9606 and 9607(a), for the Work and for Future Response Costs. This covenant not to
18 sue shall take effect upon the Effective Date and is conditioned upon the complete and
19 satisfactory performance by Respondent of all obligations under this Settlement Agreement,
20 including, but not limited to, payment of Future Response Costs pursuant to Section XV. This
21 covenant not to sue extends only to Respondent and does not extend to any other person.

22 **XX. RESERVATIONS OF RIGHTS BY EPA**

23
24 57. Except as specifically provided in this Settlement Agreement, nothing herein shall
25 limit the power and authority of EPA or the United States to take, direct, or order all actions
26

1 necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize
2 an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous
3 or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking
4 legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other
5 legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in
6 the future to perform additional activities pursuant to CERCLA or any other applicable law.

7 58. The covenant not to sue set forth in Section XIX above does not pertain to any
8 matters other than those expressly identified therein. EPA reserves, and this Settlement
9 Agreement is without prejudice to, all rights against Respondent with respect to all other matters,
10 including, but not limited to:

- 11 a. claims based on a failure by Respondent to meet a requirement of this
12 Settlement Agreement;
- 13 b. liability for costs not included within the definition of Future Response Costs;
- 14 c. liability for performance of response action other than the Work;
- 15 d. criminal liability;
- 16 e. liability for damages for injury to, destruction of, or loss of natural resources,
17 and for the costs of any natural resource damage assessments;
- 18 f. liability arising from the past, present, or future disposal, release or threat of
19 release of Waste Materials outside of T-117; and
- 20 g. liability for costs incurred or to be incurred by the Agency for Toxic
21 Substances and Disease Registry related to the T-117.

22 59. Work Takeover. In the event EPA determines that Respondent has ceased
23 implementation of any portion of the Work, is seriously or repeatedly deficient or late in its
24 performance of the Work, or is implementing the Work in a manner which may cause an
25 endangerment to human health or the environment, EPA may assume the performance of all or
26

1 any portion of the Work as EPA determines necessary. Respondent may invoke the procedures
2 set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of
3 the Work is warranted under this Paragraph. Costs incurred by the United States in performing
4 the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondent
5 shall pay pursuant to Section XV (Payment of Response Costs). Notwithstanding any other
6 provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take
7 any and all response actions authorized by law.

8
9 **XXI. COVENANT NOT TO SUE BY RESPONDENT**

10 60. Respondent covenants not to sue and agrees not to assert any claims or causes of
11 action against the United States, or its contractors or employees, with respect to the Work, Future
12 Response Costs, or this Settlement Agreement, including, but not limited to:

13 a. any direct or indirect claim for reimbursement from the Hazardous Substance
14 Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113
15 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

16 b. any claim arising out of response actions at or in connection with T-117,
17 including any claim under the United States Constitution, the Washington State Constitution, the
18 Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended,
19 or at common law; or

20 c. any claim against the United States pursuant to Sections 107 and 113 of
21 CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to T-117. The covenants not to sue in this
22 section shall not apply in the event the United States brings a cause of action or issues an order
23 pursuant to the reservations set forth in Paragraphs 58 (b), (c), and (e) - (g), but only to the extent
24 that Respondent's claims arise from the same response action, response costs, or damages that
25 the United States is seeking pursuant to the applicable reservation.
26

1 61. Nothing in this Agreement shall be deemed to constitute approval or
2 preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or
3 40 C.F.R. § 300.700(d).

4
5 **XXII. OTHER CLAIMS**

6 62. By issuance of this Settlement Agreement, the United States and EPA assume no
7 liability for injuries or damages to persons or property resulting from any acts or omissions of
8 Respondent. The United States or EPA shall not be deemed a party to any contract entered into
9 by Respondent or its directors, officers, employees, agents, successors, representatives, assigns,
10 contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

11 63. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA),
12 nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or
13 cause of action against Respondent or any person not a party to this Settlement Agreement, for
14 any liability such person may have under CERCLA, other statutes, or common law, including,
15 but not limited to, any claims of the United States for costs, damages and interest under Sections
16 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

17 64. No action or decision by EPA pursuant to this Settlement Agreement shall give
18 rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C.
19 § 9613(h).

20
21 **XXIII. CONTRIBUTION**

22 65. The Parties agree that:

23 a. This Settlement Agreement constitutes an administrative settlement for
24 purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondent is
25 entitled, as of the Effective Date, to protection from contribution actions or claims as provided
26

1 by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for
2 “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement
3 Agreement are the Work and Future Response Costs.

4 b. This Settlement Agreement constitutes an administrative settlement for
5 purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which
6 Respondent has, as of the Effective Date, resolved its liability to the United States for the Work
7 and Future Response Costs.

8 c. Nothing in this Settlement Agreement precludes the United States or
9 Respondent from asserting any claims, causes of action, or demands for indemnification,
10 contribution, or cost recovery against any persons not parties to this Settlement Agreement.
11 Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3)
12 of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional
13 response costs or response action and to enter into settlements that give rise to contribution
14 protection pursuant to Section 113(f)(2).

15 66. Respondent agrees that with respect to any suit or claim for contribution brought
16 by them for matters related to this Settlement Agreement, it will notify EPA in writing no later
17 than 60 days prior to the initiation of such suit or claim. Respondent further agree that with
18 respect to any suit or claim for contribution brought against it for matters related to this
19 Settlement Agreement, it will notify EPA in writing within 10 days of service of the complaint
20 on them. In addition, Respondent shall notify EPA within 10 days of service or receipt of any
21 Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a
22 case for trial.

23 67. In any subsequent administrative or judicial proceeding initiated by the United
24 States for injunctive relief, recovery of response costs, or other appropriate relief relating to T-
25 117 or this Settlement Agreement, Respondent shall not assert, and may not maintain, any
26

1 defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue
2 preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by
3 the United States in the subsequent proceeding should have been addressed in this Settlement
4 Agreement; provided, however, that nothing in this Paragraph affects the enforceability of the
5 covenants not to sue set forth in this Settlement Agreement.

6 7 **XXIV. INDEMNIFICATION**

8 68. Respondent shall indemnify, save and hold harmless the United States, its
9 officials, agents, contractors, subcontractors, employees and representatives from any and all
10 claims or causes of action arising from, or on account of, negligent or other wrongful acts or
11 omissions of Respondent, its officers, directors, employees, agents, contractors, or
12 subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition,
13 Respondent agrees to pay the United States all costs incurred by the United States, including, but
14 not limited to, attorneys fees and other expenses of litigation and settlement, arising from or on
15 account of claims made against the United States based on negligent or other wrongful acts or
16 omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors
17 and any persons acting on their behalf or under their control, in carrying out activities pursuant to
18 this Settlement Agreement. The United States shall not be held out as a party to any contract
19 entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement
20 Agreement. Neither Respondent nor any such contractor shall be considered an agent of the
21 United States.

22 69. The United States shall give Respondent notice of any claim for which the United
23 States plans to seek indemnification pursuant to this Section and shall consult with Respondent
24 prior to settling such claim.
25
26

70. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to T-117, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the T-117, including, but not limited to, claims on account of construction delays.

XXV. INSURANCE

71. At least 7 days prior to commencing any field Work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of one million dollars, combined single limit. Within the same time period, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. In addition, for the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

1 **XXVI. FINANCIAL ASSURANCE**

2
3 72. Within 30 days of the Effective Date and on the anniversary of the Effective Date
4 every year thereafter until Notice of Completion of Work in accordance with Section XXVIII
5 below is received from EPA, Respondent shall establish and maintain financial security in the
6 amount of \$500,000.00 to assure the Work and any other obligations required under this
7 Settlement Agreement in one or more of the following forms:

- 8 a. A surety bond guaranteeing performance of the Work;
9 b. One or more irrevocable letters of credit equaling the total estimated cost of
10 the Work;
11 c. A trust fund;
12 d. A guarantee to perform the Work by one or more parent corporations or
13 subsidiaries, or by one or more unrelated corporations that have a substantial business
14 relationship with Respondent; or
15 e. A demonstration that Respondent satisfies the requirements of 40 C.F.R. Part
16 264.143(f).

17 73. If Respondent seeks to demonstrate the ability to complete the Work through a
18 guarantee by a third party pursuant to Paragraph 72(a) of this Section, Respondent shall
19 demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If
20 Respondent seeks to demonstrate its ability to complete the Work by means of the financial test
21 or the corporate guarantee pursuant to Paragraph 72(d) or (e) of this Section, it shall resubmit
22 sworn statements conveying the information required by 40 C.F.R. 264.143(f) annually, on the
23 anniversary of the Effective Date. In the event that EPA determines at any time that the financial
24 assurances provided pursuant to this Section are inadequate, Respondent shall, within 30 days of
25 receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other
26 forms of financial assurance listed in Paragraph 72 of this Section. Respondent's inability to

1 demonstrate financial ability to complete the Work shall not excuse performance of any activities
2 required under this Settlement Agreement.

3 74. If, after the Effective Date, Respondent can show that the estimated cost to
4 complete the remaining Work has diminished below \$500,000.00, Respondent may, on any
5 anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the
6 amount of the financial security provided under this Section to the estimated cost of the
7 remaining Work to be performed. Respondent shall submit a proposal for such reduction to
8 EPA, in accordance with the requirements of this Section, and may reduce the amount of the
9 security upon approval by EPA. In the event of a dispute, Respondent may reduce the amount of
10 the security in accordance with the written decision resolving the dispute.

11 75. Respondent may change the form of financial assurance provided under this
12 Section at any time, upon notice to and approval by EPA, provided that the new form of
13 assurance meets the requirements of this Section. In the event of a dispute, Respondent may
14 change the form of the financial assurance only in accordance with the written decision resolving
15 the dispute.

16 **XXVII. MODIFICATIONS**

17
18 76. The EPA Project Coordinator may make modifications to any plan or schedule in
19 writing or by oral direction. Any oral modification will be memorialized in writing by EPA
20 promptly, but shall have as its effective date the date of the EPA Project Coordinator's oral
21 direction. Any other requirements of this Settlement Agreement may be modified in writing by
22 mutual agreement of the parties.

23 77. If Respondent seeks permission to deviate from any approved work plan or
24 schedule or Statement of Work, Respondent's Project Coordinator shall submit a written request
25 to EPA for approval outlining the proposed modification and its basis. Respondent may not
26

1 proceed with the requested deviation until receiving oral or written approval from the EPA
2 Project Coordinator pursuant to Paragraph 76.

3 78. No informal advice, guidance, suggestion, or comment by the EPA Project
4 Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or
5 any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain
6 any formal approval required by this Settlement Agreement, or to comply with all requirements
7 of this Settlement Agreement, unless it is formally modified.

8 **XXVIII. NOTICE OF COMPLETION OF WORK**

9
10 79. When EPA determines, after EPA's review of the Final Removal Action Report,
11 as required by the SOW, that all Work has been fully performed in accordance with this
12 Settlement Agreement, with the exception of any continuing obligations required by this
13 Settlement Agreement, including post-removal site controls and monitoring, if any, payment of
14 Future Response Costs, or record retention, EPA will provide written notice to Respondent. If
15 EPA determines that any such Work has not been completed in accordance with this Settlement
16 Agreement, EPA will notify Respondent, provide a list of the deficiencies, and require that
17 Respondent correct such deficiencies. Respondent shall implement the modified and approved
18 Removal Action Work Plan and shall submit a modified Final Removal Action Report in
19 accordance with the EPA notice. Failure by Respondent to implement the approved modified
20 Removal Action Work Plan shall be a violation of this Settlement Agreement.

21 **XXIX. SEVERABILITY/INTEGRATION/APPENDICES**

22
23 80. If a court issues an order that invalidates any provision of this Settlement
24 Agreement or finds that Respondent has sufficient cause not to comply with one or more
25 provisions of this Settlement Agreement, Respondent shall remain bound to comply with all
26

1 provisions of this Settlement Agreement not invalidated or determined to be subject to a
2 sufficient cause defense by the court's order.

3 81. This Settlement Agreement and its appendices constitute the final, complete and
4 exclusive agreement and understanding among the Parties with respect to the settlement
5 embodied in this Settlement Agreement. The parties acknowledge that there are no
6 representations, agreements or understandings relating to the settlement other than those
7 expressly contained in this Settlement Agreement. The following appendices are attached to and
8 incorporated into this Settlement Agreement:

9 a. Appendix A: Statement of Work.

10 b. Appendix B: Map generally depicting T-117.

11
12 **XXX. EFFECTIVE DATE**

13 82. This Settlement Agreement shall be effective on the day it is issued by EPA. The
14 undersigned representatives of Respondent certify that they are fully authorized to enter into the
15 terms and conditions of this Settlement Agreement and to bind the parties they represent to this
16 document.

17
18 **XXXI. NOTICES AND SUBMISSIONS**

19 83. Documents including work plans, reports, approvals, disapprovals, and other
20 correspondence which must be submitted under this Settlement Agreement, shall be sent to the
21 individuals at the addresses specified below, unless those individuals give written notice of a
22 change to the other parties. All notices and submissions shall be considered effective one
23 business day after receipt by Respondent's Project Coordinator, unless otherwise provided.
24 Upon request by EPA, Respondent shall submit such documents in electronic form.

25 Twelve (12) copies of documents submitted to EPA shall be forwarded to:
26

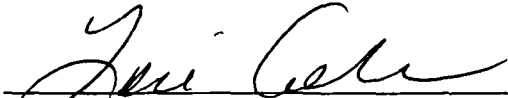
1 Michael J. Szerlog
2 U.S. Environmental Protection Agency
3 1200 Sixth Avenue, ECL-111
4 Seattle, Washington 98101

5 One (1) copy of documents submitted to EPA shall be forwarded to:

6 Brad Helland
7 Washington Department of Ecology
8 Northwest Regional Office
9 3190 160th Avenue SE
10 Bellevue, Washington 98504

11 It is so ORDERED and AGREED.

12 By



Date

8/11/06

13 Sheila Eckman

14 ECL Unit Manager

15 U.S. EPA, Region X

1 For Respondent Port of Seattle:

2
3 By Linda J. Stout Date 8-11-06
4 M.R. Dinsmore
5 for Chief Executive Officer

APPENDIX A

STATEMENT OF WORK TERMINAL 117 EARLY ACTION AREA, LOWER DUWAMISH WATERWAY SUPERFUND SITE, SEATTLE, WASHINGTON, CERCLA TIME-CRITICAL REMOVAL ACTION

This Statement of Work (SOW) describes the Time-Critical Removal Action (TCRA) to be implemented in order to remove hazardous substances from the upland property of the Terminal 117 (T-117) Early Action Area of the Lower Duwamish Waterway (LDW) Superfund Site in compliance with the Administrative Settlement Agreement and Order on Consent to which it is attached and incorporated into. The Port of Seattle (Respondent) will implement this SOW.

The objectives of this SOW are to prevent or reduce the potential for human exposure to contaminants and to prevent or reduce the potential for contaminants to migrate into the Lower Duwamish Waterway at concentrations potentially exceeding the Washington State Sediment Management Standards in sediments.

1.0 GENERAL REMOVAL ACTION REQUIREMENTS

1.1 Regulatory Requirements

The Respondent will comply with all Applicable or Relevant and Appropriate Requirements (ARARs) to the maximum extent practicable considering the exigencies of the situation. To the extent required, the Respondent is responsible for obtaining all necessary permits or other authorizations for the work conducted under this Statement of Work.

1.2 TCRA Removal Action Work Plan (RAWP)

The Respondent will prepare, for EPA review and approval, draft and final Removal Action Work Plans (RAWP) that describe and define, in detail, the construction activities for the soil removal and interim asphalt cap construction in the Upland Area of the T-117 Early Action Area. The final Removal Action Work Plan shall incorporate revisions to address EPA's comments on the draft Work Plan. The Removal Action Work Plan shall include, but not be limited to, the following:

- A. Construction Design Plan describing the design basis and implementation approach for the TCRA, containing at a minimum:

1. A detailed description of construction activities associated with the TCRA, including but not limited to project management/administration, quality assurance/quality control, community coordination, tenant coordination, site access control and security, site logistics and sequencing, demolition, truck traffic management, soil excavation, soil stockpiling and testing, safe material transport and disposal that will not result in off-site releases of contaminants,,, construction storm water management, dust control, truck decontamination, pre- and post-monitoring assessment of the road right-of-way traveled by disposal trucks, air monitoring for relevant contaminants, confirmational sampling, backfilling, interim cap construction, septic system impacts (procedures to stop excavation if drain field is encountered), and as-built surveys and record drawings.
2. Identification and approach to comply with substantive requirements for Applicable or Relevant and Appropriate Requirements.
3. Construction Plans and Specifications (listed on drawings or in sections of the RAWP) stamped by a Professional Engineer registered in the State of Washington, for elements to be constructed including, at a minimum, excavation, shoring (if necessary), utility removal/replacement, backfill, and interim asphalt cap development.
4. Schedule for completing the construction activities and deliverables. This schedule shall be updated as requested by EPA.
5. Contingency Plan that describes what actions will be taken in the event of an emergency, natural disaster, or failure of a component of the approved RAWP including excess rainfall, unexpected contamination or subsurface conditions, and other risk elements.

B. Health and Safety Plan

As part of the RAWP, the Respondent will submit a Health and Safety Plan for EPA review and comment. The Health and Safety Plan will establish the minimum health and safety guidelines to be followed during all TCRA activities. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide, dated November 1984 (and all applicable updates), shall comply with the applicable federal regulations of the Department of Labor's Occupational Safety and Health Administration (OSHA) regulations found in 29 CFR Part 1910, and all current applicable Washington Industrial Safety and Health Act (WISHA) requirements found in Chapter 49.17 RCW and all applicable regulations derived therefrom. The Health and Safety Plan must include worker protection and safety requirements and delineate exclusion ("hot"), contamination-reduction, and support ("cold") zones. The Respondent will incorporate all changes to the plan recommended by EPA and will implement the Health and Safety Plan while performing all response activities pursuant to this SOW. Prior to the initiation of on-site activities, all removal contractors must demonstrate compliance with the applicable OSHA regulations found in 29 C.F.R. Part 1910.120 and WISHA.

C. Quality Assurance Project Plans

As part of the RAWP, the Respondent will submit the appropriate Quality Assurance Project Plans (QAPPs) for EPA review and approval. The purpose of the QAPPs are to document sampling and analysis necessary to characterize removed soil and debris for disposal, to confirm achievement of the TCRA action levels, to indicate the nature and extent of soil contamination remaining after completion of the TCRA excavations, to document stormwater quality for disposal, to document success in preventing spread of contamination and success of decontamination activities, and to document that air quality is not adversely impacted by TCRA activities.

The QAPP will include a Sampling and Analysis Plan (SAP) that describes the data quality objectives, the number and type of samples to be collected, the method of collection, and provides a description and/or map of the sampling locations. The QAPP will conform to all EPA guidance regarding sampling, field or fixed laboratory analytical test methods, quality assurance/quality control, data validation, and chain-of-custody procedures. The Respondent will incorporate all changes to the plan required by EPA and will follow the approved QAPP for any samples taken during the TCRA, including but not limited to samples from air sampling, stockpile soil sampling, post-excavation/confirmation soil sampling, roadway sampling, decontamination fluid sampling, and stormwater management sampling.

1.4. Progress Reports

The Respondent will, unless otherwise directed by EPA, submit monthly Progress Reports throughout the implementation of removal activities and weekly Progress Reports during field work covered by this SOW. Progress Reports will outline all significant developments during the report period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period (next 3 reporting periods for field construction activities), including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems. During periods of on-site construction activities covered by this Statement of Work, the Respondent will submit brief daily informal Progress Reports to EPA. Informal daily Progress Reports, via email, shall include a summary of construction activities accomplished, summary of weather, major changes in on-site resources (labor and equipment), problems encountered, preliminary analytical results received, samples collected, public complaints, media attention, accidents, spills, and incidents.

1.5. Special Incident Reports

When necessary, the Respondent will submit Special Incident Reports. Special Incident Reports will be prepared when situations occur that justify particular attention, including, but not limited to, fires, explosions, earthquake, significant accidents (even if no injuries or releases occur), or

spread of contamination outside of the exclusion zone (including all spills or releases). The Special Incident Report requirements are distinct from and broader than the release reporting required by Section 300.125(c) of the NCP.

1.6. Operations and Maintenance/Post Removal Site Control Plan

The Respondent will submit an Operation and Maintenance/Post Removal Site Control Plan for EPA review and approval. The Plan shall include plans and procedures for ensuring actions taken under this TCRA remain effective until more permanent measures are in place. This plan shall ensure the interim asphalt cap and stormwater system are operated, monitored, and maintained in a manner that controls public access, prevents contact with contaminated soils, prevents erosion, prevents infiltration of stormwater, and prevents discharge of contaminated stormwater. The Plan shall be consistent with 40 CFR Section 300.415(1) and the "Policy on Management of Post-Removal Site Control" (OSWER Directive No. 9360.2-02). The Respondent will incorporate all changes to the plan required by EPA and will implement the approved plan upon completion of TCRA activities.

1.7 Final Report

The Respondent shall submit a Final Report for EPA review and approval. The Final Report shall conform, at a minimum, with the requirements set forth in 40 CFR Section 300.165. The Final Report shall include, at a minimum, the following: (1) a good faith estimate of total costs or a statement of actual costs incurred in complying with the order; (2) a listing of quantities and types of materials removal off-site or handled on-site; (3) a discussion of removal and disposal activities conducted; (4) a listing of the ultimate destination of those materials taken off-site; (5) results of sampling and analyses performed; (6) as-built surveys of excavation areas, cap, and stormwater management system, and (7) appendices containing all relevant documentation generated during the removal action (e.g., manifest, photographic documentation, data validation information, and permits).

2.0 SITE CONTROL MEASURES

A. Environmental Protection

During implementation of the Removal Action, the Respondent will manage all contaminated soils and hazardous substances in such a way as to prevent their release to the environment and to prevent the spread of contamination. Adherence to Site Control Measures will be documented in the Progress Reports. Specific activities, include, but not limited to:

1. Sample PCBs in the unpaved road rights of way along the truck transportation route to 14th Avenue South before, and after the TCRA.
2. Thoroughly decontaminate trucks (wheels, chassis, and haul containers) leaving T-117 to prevent contamination of adjacent streets.
3. Perform rigorous housekeeping, dust control, and stormwater runoff/runoff control to prevent tracking and spread of contaminants.

4. Appropriately manage all excavated materials.
5. Cover all non-active material stockpiles.
6. Cover all truck loads.
7. Manage site remediation areas to limit personnel and equipment access to the minimum necessary.
8. Provide traffic access control.
9. Spray water on surface soil, stockpiles, and excavation and soil handling operations as needed to prevent fugitive dust
10. Implement Engineering controls to minimize or prevent soil erosion.

The Respondent will complete air monitoring and sampling for fugitive dust and chemical hazards in accordance with the EPA-approved Air Quality Monitoring Plan and QAPP during all Removal Activities. The Respondent will also take measures to minimize odors created as result of implementation of the Removal Action.

B. Decontamination

The Respondent shall construct decontamination areas for all people and equipment to prevent the spread of contamination. At a minimum, this shall include the construction of a decontamination area designed to contain and collect water if used in decontamination equipment and vehicles ("decontamination water"). A decontamination station for workers shall also be constructed. All decontamination water shall be properly disposed of off-site at an appropriate disposal facility based upon analytical results. All contaminated personnel protection equipment shall be either decontaminated or properly disposed of off-site.

C. Personnel Restrictions

As outlined in the Health and Safety Plan, the Respondent shall clearly delineate contaminated "hot" and "cold" zones. Access to "hot" zones shall be restricted to persons in compliance with 29 CFR 1910.120 and WISHA, who have official business at the site. "Hot" zones shall be clearly marked by banner tape, and access to hazardous areas shall be marked by fences, cones, warning signs, caution lights, and/or banner tape to prevent vehicular or pedestrian accidents or exposure to contamination. No persons shall enter the "hot" zone without appropriate personnel protective equipment and without following the check-in procedures outlined in the Health and Safety Plan.

3.0 REMOVAL ACTION IMPLEMENTATION

The Respondent will complete the following during the removal action:

- A Remove all soils in the Upland Areas B-1, B-2, and B-3 and the bank area containing the highest concentrations of polychlorinated biphenyls

(PCB)... A preliminary determination of the areas, depths, and volumes of soils exceeding these criteria is contained in. Attachment 1- Proposed Excavation Areas. The actual removal areas, depths, and volumes may be modified during design or in the field based on implementation constraints, subject to written approval by EPA. The Respondent shall manage all contaminated soils and hazardous substances in such a way as to prevent their release to the environment. Any deviation from attaining action levels due to construction implementation or excavation feasibility issues can only be made following consultation and written approval by EPA.

- B. Remove soils in the upper two feet in the identified Bank and Upland Area B-3. Remove soils to an action level of 25 ppm in the identified Upland Areas in B-1 and B-2.
- C. Complete sample analyses on an expedited turnaround basis to allow timely EPA review and input to decisions regarding removal action implementation and achievement of action levels in Areas B-1 and B-2
- D. Dispose of all removed soils and material off site at approved Subtitle D and Subtitle C landfills, as appropriate based upon sampling results, or other facilities as required by applicable federal and state regulations.
- E. After soil removal, test the subgrade soils to confirm achievement of the project action levels for PCBs and TPH (if PCBs are 1 ppm or less) in Areas B-1 and B-2. Sampling frequency will be as approved by EPA. Additionally, the Respondent will test soils for PCBs and TPH (if PCBs are 1 ppm or less) to document residual concentrations of PCBs and TPH in Area B-3 and the identified Bank.
- F. Backfill excavations with clean soil and construct a temporary asphalt cap in Areas B-1, B-2, and specific areas of B-3 with specifications approved by EPA, in areas that were excavated during the TCRA. Cover the exposed bank and specific areas of B-3 with filter fabric and gravel to prevent erosion.
- G. Provide notices and communications to the public.

4.0 SCHEDULE

The Respondent will complete the plans and activities by the deadlines listed below unless otherwise approved in writing by EPA. Days listed in the schedule are calendar days. EPA reviews are assumed to take 7 days. Final documents shall be submitted with 21 days following receipt of EPA comments.

| Draft Plan or Report | Due Date |
|---|---|
| Draft TCRA Removal Action Work Plan | 20 days from effective date |
| Health and Safety Plan | 20 days from effective date |
| QAPP/SAP | 20 days from effective date |
| Air Quality Monitoring Plan | 20 days from effective date |
| Monthly Progress Reports | Every 30 th day from effective date |
| Weekly Progress Report | Every 7 th day during field work. |
| Informal Daily Progress Report | Daily during construction. |
| Special Incident Reports | Notification within 24 hours of incident, Report within 48 hours of EPA request |
| Operations and Maintenance Plan | 100 days from effective date or 30 days from EPA approval of the RAWP, whichever is later |
| Post-Removal Site Control Plan | 100 days from effective date or 30 days from EPA approval of the RAWP, whichever is later |
| Final Report | 75 days from completion of TRCA on-site construction activities |
| TCRA Removal Action | September, October 2006 assuming EPA approval of the RAWP by August 31, 2006 |
| Operations and Maintenance Implementation | Upon completion of TRCA on-site construction activities |

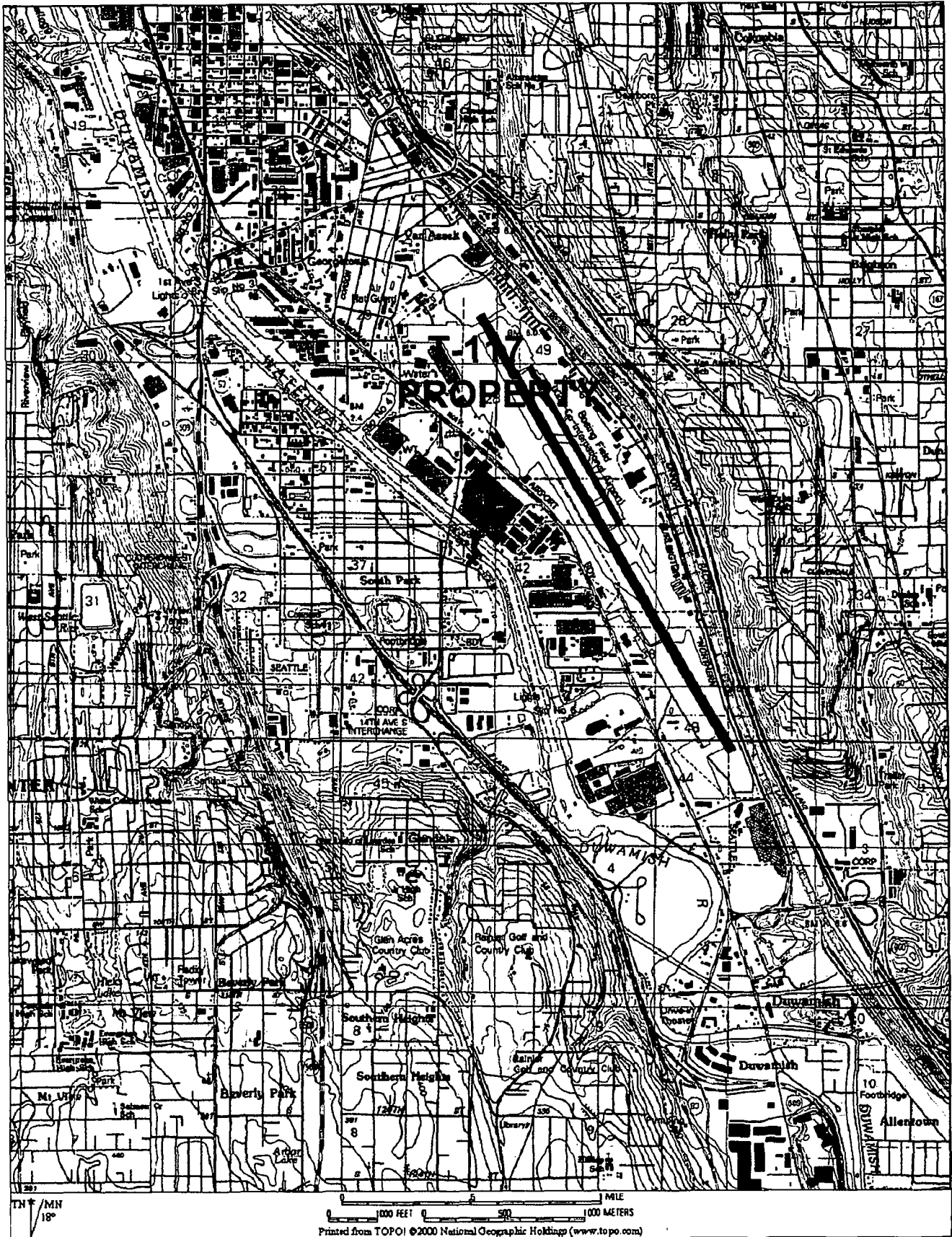
REFERENCE DOCUMENTS

Federal Registry. 1990. National Oil And Hazardous Substances Contingency Plan: final rule. 55 Fed. Reg. 8666. March 8, 1990.

U.S. E.P.A. Environmental Response Team Standard Operating Procedures. Office of Solid Waste and Emergency Response OSWER Directive Numbers 9360.4-02 through 9360.4-08.

- EPA. Quality Assurance/Quality Control Guidance For Removal Activities: Sampling QA/QC plan and data validation procedures. Office of Solid Waste and Emergency Response OSWER Directive 9360.4-01.
- EPA. Test Methods For Evaluating Solid Waste: Physical/Chemical Methods. Third Edition. Office of Solid Waste (OSW: SW-846).
- EPA. Toxicity Characteristic. Final Rule (EPA/OSW-FR-89-026).
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- EPA. 1991. User’s Guide To The Contract Laboratory Program. Office of Emergency and Remedial Response EPA/540/P-91/002. January 1991.
- EPA. 2000. Closeout Procedures For National Priorities List Sites. 540-R-98-016. January 2000.
- EPA. 2001. EPA Requirements For Quality Assurance Project Plans. Office of Environmental Information (EPA QA/R-5) EPA/240/B-01/003. March 2001.

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PORT OF SEATTLE T-117
SEATTLE, WASHINGTON
PORS5-19078-000

DATE: 09/11/06 DRWN: E.M./SEA

APPENDIX B
T-117 LOCATION MAP

FIGURE 1-1